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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,289	02/26/2004	Kenji Nishimura	249293US90	3917
22850	7590	05/05/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			AJIBADE AKONAI, OLUMIDE	
			ART UNIT	PAPER NUMBER
			2617	

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/786,289	Applicant(s) NISHIMURA ET AL.	
	Examiner Olumide T. Ajibade-Akonai	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-11, 13, 14, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 and 14 is/are allowed.
- 6) ☒ Claim(s) 2-11, 17 and 18 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

DETAILED ACTION

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It appears the Applicant has amended claims 2 to reflect the premise of the argument that the soft handover processing includes ***"dividing the data and providing a sequence number to each of the data fragments based on a sequence number providing status"***. Consequently, after further evaluation of the Applicant's specification, specifically on page 23, lines 21-29, page 24, lines 1-29 and page 25, lines 1-6, the Applicant asserts that ***"a data dividing unit 36 provided in the first radio network controller RT 2 divides downlink data into data fragments when it receives a control point change information or notification to operate as an uppermost control point"***. Therefore the newly added limitation of "based on a sequence number providing status" is not adequately supported by the original specification and constitutes new matter.

Claims 3-11 stand rejected based on their dependence on claim 2.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by **Wallentin (6,246,878)**.

Regarding **claim 18**, Wallentin discloses a radio network controller (SRNC and TRNC, see fig. 1, col. 4, lines 60-66) for performing a soft handover process for allowing soft handover of a mobile terminal (TRNC and SRNC involved an inter-RNC handover with mobile station MS, see fig. 2, col. 5, lines 24-26), when the mobile terminal is performing the soft handover, in uplink radio data communications in which the mobile terminal transmits data via a base station (see col. 5, lines 36-42), the radio network controller comprising: a notification receiver configured to receive a notification instructing the radio network controller to perform the soft handover process (Target RNC receives a handover setup request, see col. 8, lines 3-24); a selective combiner (Target RNC and Source RNC with multistage combining operation, see fig. 6, col. 9, lines 61-66) configured to perform selective combining of data fragments from base stations managed by the radio network controller among all base stations to which the mobile terminal is connected when performing the soft handover, in response to the notification (multistage frame combining operation, see figs. 6, col. 9, lines 61-67 and

col. 10, lines 1-38); and a data transmitter (DHU 130, see col. 5, line 42) configured to transmit the selectively combined data fragments to a first radio network controller in response to the notification (see col. 5, lines 35-50).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Wallentin (6,246,878)** in view of **Jiang (6,725,040)**.

Regarding **claim 17**, Wallentin discloses a radio network controller (SRNC and TRNC, see fig. 1, col. 4, lines 60-66) for performing a soft handover process for allowing soft handover of a mobile terminal (TRNC and SRNC involved an inter-RNC handover with mobile station MS, see fig. 2, col. 5, lines 24-26), when the mobile terminal is performing the soft handover, in uplink radio data communications in which the mobile terminal transmits data via a base station (see col. 5, lines 36-42), the radio network controller comprising: a notification receiver configured to receive a notification instructing the radio network controller to perform the soft handover process as a first radio network controller (Target RNC receives a handover setup request, see col. 8, lines 3-24); a selective combiner (Target RNC and Source RNC with multistage combining operation, see fig. 6, col. 9, lines 61-66) configured to perform selective combining of data fragments from all base stations to which the mobile terminal is

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connected when performing the soft handover, in response to the notification (multistage frame combining operation, see figs. 6, col. 9, lines 61-67 and col. 10, lines 1-38), wherein the selective combining is performed at least according to the sequence number in each data segments (frame number, see fig. 6, col. 10, lines 8-16).

Wallentin fails to disclose a reconstructor (frame selector, see col. 6, lines 28-42) configured to reconstruct the data from the selectively combined data fragments, in response to the notification.

In the same field of endeavor, Jiang discloses a reconstructor (RNC 22 with upper layer 22u and compressor/decompressor 22c, see fig. 2, col. 1, lines 44-61) configured to reconstruct the data from the selectively combined data fragments, since the in response to the notification (PDCP PDUs received from the mobile unit 40 are used to generate the SDU's 48, see fig. 2, col. 2, lines 24-32).

It would therefore have been obvious to one of ordinary skill in the art to combine the teaching of Jiang into the system of Wallentin for the benefit of providing lossless handoff of a serving radio network system.

Allowable Subject Matter

8. Claims 13 and 14 are allowed.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Ljung (6,078,813) discloses handover quality control in a mobile communications system.

Lehtovirta et al (20010034228) discloses a method and apparatus for releasing connections in an access network.

Wigell et al 6,928,304 discloses an automatic repetition request mechanism in a radio access network.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

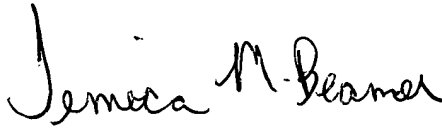
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olumide T. Ajibade-Akonai whose telephone number is 571-272-6496. The examiner can normally be reached on M-F, 8.30p-5p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

OA


TEMICA BEAMER
PRIMARY EXAMINER